



0000152394

## BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

2014 APR 11 A 11:00

APR 11 2014

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

ARIZONA CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
FAR WEST WATER & SEWER, INC. FOR  
EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY FOR SEWER  
SERVICE.

DOCKET NO. WS-03478A-10-0523

ORIGINAL

PROCEDURAL ORDER**BY THE COMMISSION:**

On December 30, 2010, Far West Water and Sewer Company, Inc. ("Far West" or "Company") filed an application with the Arizona Corporation Commission ("Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N" or "Certificate") to provide sewer service to a commercial development known as Fortuna Commons in Yuma County.

By Procedural Order dated March 4, 2011, a procedural schedule was established and a hearing was set for May 5, 2011.

On April 15, 2011, the Commission's Utilities Division ("Staff") filed its Staff Report, recommending denial of the extension request because the Company's wastewater treatment plants were not in compliance with Arizona Department of Environmental Quality ("ADEQ") regulations or an ADEQ Consent Order, and concerns over the Company's financial and managerial abilities to provide service in its existing service territory.

On April 20, 2011, Far West filed a "Motion to Suspend the Procedural Schedule and To Continue Hearing," requesting that the procedural schedule be suspended and that the hearing be continued indefinitely.

By Procedural Order dated April 20, 2011, the procedural schedule was suspended and Far West was directed to file a status report when the treatment plant was operational.

On February 2, 2011, Far West filed a status report, which indicated that at that time, the

1 treatment plant was not yet operational.

2 By Procedural Order dated January 6, 2014, Staff was directed to update the status of this  
3 matter.

4 On February 7, 2014, Staff filed a Response to the Procedural Order. Staff now believes that  
5 The Company is in total compliance with ADEQ regulations and orders; that the Company still  
6 desires to provide sewer service in Fortuna Commons; and that there are still customers in Fortuna  
7 Commons who want that service. Staff recommended that the Commission approve Far West's  
8 application for extension of its CC&N to provide sewer service in Fortuna Commons, subject to it  
9 charging its authorized rates and charges in the extension area.

10 By Procedural Order dated March 18, 2014, a telephonic Procedural Conference convened on  
11 April 2, 2014, for the purpose of re-establishing a procedural schedule in this matter. Far West and  
12 Staff appeared though counsel. Far West agreed to file supplemental information in the form of pre-  
13 filed testimony that would update its application, and the parties agreed that they would be available  
14 for a hearing around the first week of June, 2014. Staff did not believe its Staff Report required  
15 further update.

16 As there appears to remain a need for sewer service in the proposed extension area and that  
17 previous ADEQ violations involving Far West's treatment plants are resolved, this matter should be  
18 set for hearing.

19 IT IS THEREFORE ORDERED that a the **hearing** in this matter shall convene on **June 5,**  
20 **2014, at 10:00 a.m.,** or as soon thereafter as is practical, at the Commission's offices in Tucson,  
21 **Room 222, 400 West Congress, Tucson, Arizona 85701.**

22 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
23 105, except that all motions to intervene must be filed on or before **May 15, 2014.**

24 IT IS FURTHER ORDERED that **Intervenor direct testimony**, if any, shall be filed on or  
25 before **May 19, 2014.**

26 IT IS FURTHER ORDERED that Far West shall update the status of its operations, provide  
27 evidence of a need and desire for sewer service from Far West by Property owners in the proposed  
28

extension, and any response to the Staff Report by filing written testimony on or before **May 23, 2014**.

IT IS FURTHER ORDERED that **any testimony by Staff or Intervenors in reply** to the Company's filing shall be filed on or before **May 30, 2014**.

IT IS FURTHER ORDERED that Far West shall serve public notice of the hearing in this matter, in the following form and style, with the heading in no less than 12 point bold type and the body in no less than 10 point regular type:

**PUBLIC NOTICE OF HEARING ON APPLICATION BY  
FAR WEST WATER AND SEWER, INC.  
FOR EXTENSION OF ITS  
CERTIFICATE OF CONVENIENCE AND NECESSITY  
DOCKET NO. WS-03478A-10-0523**

On December 30, 2010, Far West Water and Sewer, Inc. ("Company") filed an application with the Arizona Corporation Commission ("Commission") for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide sewer service to a commercial development known as Fortuna Commons in Yuma County. If the application is granted the Company would be the exclusive provider of sewer service within the requested extension area, and would be required to provide service on the terms and conditions as established by the Commission. The Commission's Utilities Division ("Staff") filed an updated Staff Report on February 7, 2014, recommending approval of the Application. The Commission is not bound by the proposals made by Far West, Staff or any intervenor. The Commission will issue a Decision regarding the application following consideration of testimony and evidence at an evidentiary hearing.

**How to Obtain a Copy of the Application**

Copies of the application, Staff Report, and any written testimony filed by the Company will be available at Far West's office [COMPANY INSERT ADDRESS] during regular business hours; at the Commission's Docket Control Center at 1200 West Washington Street, Phoenix, Arizona; at the Commission's Tucson office at 400 West Congress Street, Suite 218, Tucson, Arizona 85701; and on the internet via the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the e-Docket function, and searching using Docket No. WS-03478A-10-0523.

**Public Hearing Information**

The Commission will hold a hearing on this matter on **June 5, 2014, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's Tucson offices, **Room 222, 400 West Congress Street, Tucson, Arizona 85701**.

Public comments will be taken at the beginning of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. WS-03478A-10-0523 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by email. For a form to use and instructions on how to e-mail comments to the Commission, go to

<http://www.azcc.gov/divisions/utilities/forms/PublicCommentForm.pdf>. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or (520) 628-6550.

### **About Intervention**

The law provides for an open public hearing at which, under appropriate circumstances, interested persons may intervene in the proceedings and participate as a party. Persons desiring to intervene must file a written motion to intervene with the Commission and send such motion to the Company or its counsel and to all parties of record. The motion must, at the minimum, contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different from that of the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer or potential customer of the Company, a member or shareholder of the Applicant, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.
4. Unless the proposed intervenor is an individual representing himself or herself, or is represented by an attorney who is an active member of the Arizona State Bar, information and any appropriate documentation demonstrating compliance with Arizona Supreme Court Rules 31, 38 and 42, as applicable.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before May 14, 2014. If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of intervention, among other things, entitles a party to present sworn evidence at the hearing and to cross-examine other witnesses. Intervenor testimony, if any, must be filed by May 19, 2014, and Responsive testimony is due May 30, 2014. Failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments in the record of the case.

### **ADA/ Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator Shaylin Bernal, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov), voice phone number 602/542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Far West shall mail to each property owner in the requested extended service territory, a copy of this notice by first-class U.S. Mail, to begin as soon as possible and to be completed on or before **April 30, 2014**.

1 IT IS FURTHER ORDERED that Far West shall have a copy of the notice **published at least**  
2 **once** in a newspaper of general circulation in its certificated area, such **publication to be completed**  
3 **by April 30, 2014.**

4 IT IS FURTHER ORDERED that Far West shall file certifications of mailing and publication  
5 as soon as practicable after the mailing and publication is completed.

6 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and  
7 publication, notwithstanding the failure of an individual customer to read or receive the notice.

8 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
9 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission *pro*  
10 *hac vice*.

11 IT IS FURTHER ORDERED that if required by Rule 31 of the Rules of the Arizona Supreme  
12 Court, the intervention granted herein is conditioned upon the intervenor obtaining counsel to  
13 represent the intervenor, and such counsel filing a notice of appearance with the Commission.

14 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
15 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
16 Rules of the Arizona Supreme Court). Representation before the Commission includes appearing at  
17 all hearings, procedural conferences, and Open Meetings at which the matter is scheduled for  
18 discussion, unless counsel has previously been granted permission to withdraw by the Administrative  
19 Law Judge or the Commission.

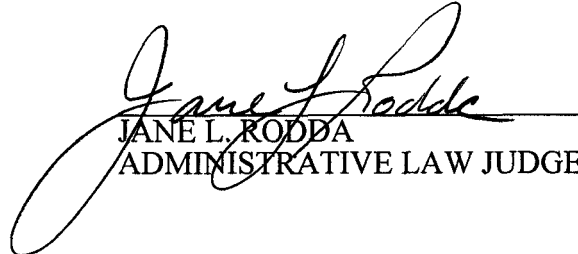
20 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
21 Communications) applies to this proceeding and shall remain in effect until the Commission's  
22 Decision in this matter is final and non-appealable.

23 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended  
24 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

25  
26 ...  
27  
28

1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 DATED this 10<sup>th</sup> day of April, 2014.

5  
6   
7 JANE L. RODDA  
8 ADMINISTRATIVE LAW JUDGE  
9

10 Copies of the foregoing mailed  
this 10<sup>th</sup> day of April, 2014 to:

11 Mr. Craig Marks  
12 Craig A. Marks, PLC  
13 10645 N. Tatum Blvd.  
14 Suite 200-767  
Phoenix, AZ 85028  
Attorney for Far West

15 Ms. Janice Alward, Chief Counsel  
16 Legal Division  
ARIZONA CORPORATION COMMISSION  
17 1200 West Washington Street  
Phoenix, Arizona 85007

18 Mr. Steve Olea, Director  
19 Utilities Division  
ARIZONA CORPORATION COMMISSION  
20 1200 West Washington Street  
Phoenix, Arizona 85007

21 COASH & COASH, INC.  
22 COURT REPORTING  
1802 N. 7<sup>th</sup> Street,  
Phoenix, AZ 85006

23  
24 By:   
25 Jane L. Rodda  
26  
27  
28